

REMARKS

Claims 1-20 remain pending in the present application. Claims 1, 10 and 16 have been amended. Basis for the amendments can be found throughout the specification, claims and drawings as originally filed.

SPECIFICATION

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. Applicant respectfully traverses this rejection. Applicant has amended the specification to add the specific wording used in the amended claims of the present application.

The original specification states that during a rebound stroke fluid is forced through passage 56 into intermediate chamber 52 and through inlet passage 72 (page 8, paragraph 21). The original specification also states that during a compression stroke fluid is forced through passage 100 into intermediate chamber 52 and through inlet passage 72. This detailed description in conjunction with Figures 2 and 3 clearly shows that intermediate chamber 52 is in direct communication with the upper and lower working chambers through passages 56 and 100 and therefore it is also inherent and clearly shown in Figure 3 that there can be fluid flow directly between the upper and lower working chambers through intermediate chamber 52. Thus, Applicant believes the amendment to the specification is fully supported by the original disclosure. Reconsideration of the rejection is respectfully requested.

REJECTION UNDER 35 U.S.C. § 112

Claims 1-20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully traverses this rejection. Claims 1, 10 and 16 have been amended to define that the upper and lower working chambers are in direct communication with each other through the intermediate chamber. The specification has been amended to support this limitation as discussed above.

The Examiner agrees that Kashiwagi, et al; Spakowski, et al.; Nezu, et al.; and Beck all do not disclose the limitation that the intermediate chamber is in direct communication with the upper and lower working chambers. The Examiner then looks to Feigel or Groves to find this feature.

Feigel Figure 5 discloses the lower working chamber 5 being in communication with annular chamber 54 through passages 53. Based on Figure 1, the upper working chamber 4 is in communication with intermediate chamber 33 through a passage in the upper rod bearing guide but annular chamber 54 is not in direct communication with intermediate chamber 33 because of valve 13 and thus, the upper and lower working chambers of Feigel are not in direct fluid communication with each other as is now defined in amended Claims 1, 10 and 16.

Groves, et al. discloses that an upper working chamber 24 is in direct fluid communication with valve 22 through an upper intermediate chamber 50 due to passage 130. Also, lower working chamber 26 is in direct fluid communication with valve 22 through passage 132 and lower intermediate chamber 52. But there is no

direct communication between upper intermediate chamber 50 and lower intermediate chamber 52 and thus, the upper and lower working chambers 24, 26 are not in direct communication with each other through the intermediate chambers 50, 52 as is defined in the present application.

Thus, Applicant believes Claims 1, 10 and 16, as amended, patentably distinguish over the art of record. Likewise, Claims 2-9, 11-15 and 17-20, which ultimately depend from one of these independent claims, are also believed to patentably distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

SUPPLEMENTAL OATH

Applicant's attorney has drafted a Supplemental Oath and has forwarded to the inventor in Belgium for execution. The Supplemental Oath refers to application number, the filing date of the application and the filing date of this amendment. Applicant will file the Supplemental Oath upon its receipt.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the

Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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By: 

Michael J. Schmidt, 34,007

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

MJS/pmg